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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA,
SAN FRANCISCO DIVISION

SONOS, INC.,
Plaintiff and Counter-defendant,
v.
GOOGLE LLC,
Defendant and Counter-claimant.

Case No. 3:20-cv-06754-WHA
Related to Case No. 3:21-cv-07559-WHA

**SONOS, INC.'S PROPOSED
STIPULATED PARTIAL CONSENT
JUDGMENT**

1 Pursuant to the Court's April 19, 2023 Case Management Order (Dkt. No. 571), attached
2 please find Sonos's proposed stipulated partial consent Judgment.

3
4 Dated: April 20, 2023

ORRICK HERRINGTON & SUTCLIFFE LLP
and
LEE SULLIVAN SHEA & SMITH LLP

By: /s/ Clement S. Roberts

Clement S. Roberts

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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

15 SONOS, INC.,

16 Plaintiff,

17 vs.

18 GOOGLE LLC.,

19 Defendant.

CASE NO. 3:20-cv-06754-WHA

**[PROPOSED] STIPULATED PARTIAL
CONSENT JUDGMENT**

Judge: Hon. William Alsup

1 Plaintiff Sonos, Inc. (“Sonos”) and Defendant Google LLC (“Google”) have agreed to the
2 following stipulation concerning specific claims of Sonos’s U.S. Patent No. 9,967,615 (“’615
3 patent”) and respectfully request the Court to adopt and enter the following Partial Consent
4 Judgment:

5 WHEREAS, Google filed a complaint seeking a declaratory judgment of non-infringement
6 and invalidity of the ’615 patent in this district on September 28, 2020. Dkt. 1.

7 WHEREAS, Sonos filed an action in the Western District of Texas on September 29, 2020,
8 asserting a claim for infringement of the ’615 patent against Google (*Sonos, Inc. v. Google LLC*,
9 No. 3:21-cv-07559-WHA, Dkt. No. 1).

10 WHEREAS, the Court entered a “Patent Showdown Scheduling Order” (Dkt. 68) that
11 ordered the parties to each elect one claim from an asserted patent and move for summary judgment
12 on that claim, with any remaining issues not resolved by summary judgment to be tried in a patent
13 showdown trial, and all remaining issues tried in a second trial. Dkt. 68.

14 WHEREAS, Sonos indicated on October 28, 2021 that the claims it would assert from the
15 ’615 Patent in this action would be independent claims 13 and 25 and dependent claims 14, 15, 18,
16 19, 20, 21, and 26, each of which depends ultimately from one of claim 13 or 25.

17 WHEREAS, pursuant to the Court’s Patent Showdown Scheduling Order, Google elected
18 claim 13 from the ’615 Patent for the showdown and moved for summary judgment of invalidity
19 and non-infringement of claim 13. Dkt. 211.

20 WHEREAS, the Court granted Google’s motion and held claim 13 of the ’615 Patent invalid
21 under 35 U.S.C. § 103(a) and not infringed by Google. Dkt. 316 (“Court’s Showdown Summary
22 Judgment Order”).

23 WHEREAS, claim 25 of the ’615 Patent mirrors claim 13 in all material respects and thus
24 stands invalid and is not infringed for the same reasons set forth in the Court’s Showdown Summary
25 Judgment Order. Dkt. 316.

26 WHEREAS, in view of the Court’s Showdown Summary Judgment Order finding that
27 independent claim 13 was not infringed by Google, no other asserted dependent claim can be found
28 infringed by Google absent reversal or vacatur of the Court’s Showdown Summary Judgment Order.

1 *See Wahpeton Canvas Co., Inc. v. Frontier, Inc.*, 870 F.2d 1546, 1553 n. 9 (Fed. Cir. 1989) (“It is
2 axiomatic that dependent claims cannot be found infringed unless the claims from which they
3 depend have been found to have been infringed.”).

4 WHEREAS, Sonos has since agreed (i) to withdraw claims 18 and 19 from assertion against
5 Google in this case, (ii) that, for purposes of this case, the validity of claims 18 and 19 of the ‘615
6 Patent rise and fall together with the validity of claim 13 of the ‘615 Patent, and (iii) not to, for this
7 case, separately argue or appeal the validity of claims 18 and 19.

8 WHEREAS, Sonos retains the right to appeal the Court’s Showdown Summary Judgment
9 Order, and in the event that such appeal results in reversal or vacatur of the Court’s Showdown
10 Summary Judgment Order, Sonos agrees that claims 18 and 19 remain withdrawn from assertion
11 against Google.

12 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED that:

- 13 1. In view of the Court’s Showdown Summary Judgment Order, claims 18, 19, and 25
14 stand invalid;
- 15 2. In view of the Court’s Showdown Summary Judgment Order and this Partial
16 Consent Judgment, there are no remaining issues of triable fact concerning the ‘615
17 Patent;
- 18 3. Sonos retains the right to appeal the Court’s Showdown Summary Judgment Order
19 at the conclusion of the case;
- 20 4. In the event the invalidity of claim 13 (as held by this Court’s Showdown Summary
21 Judgment Order) is vacated or reversed, then claims 18, 19, and 25 will no longer
22 stand invalid and claims 18 and 19 will be dismissed with prejudice against
23 Google.

24 IT IS SO ORDERED AND ADJUDGED.

25 Dated:

Respectfully submitted,

26 _____
Attorneys for GOOGLE LLC

Attorneys for SONOS INC.

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